

4-1



**COUNTY OF SAN LUIS OBISPO
DEPARTMENT OF PLANNING AND BUILDING
STAFF REPORT**

SUBDIVISION REVIEW BOARD

*Promoting the wise use of land
Helping build great communities*

MEETING DATE December 5, 2005	CONTACT/PHONE Josh LeBombard (805) 781-1431	APPLICANT Greg Shipley	FILE NO. CO 04-430 SUB2004-00019
SUBJECT Request by Greg Shipley for a Vesting Tentative Parcel Map using the Transfer of Development Credits program to subdivide an existing 50 acre parcel into two parcels of 30 and 20 acres each for the purpose of sale and/or development. The proposal also includes a request to waive road standards. The proposed project is within the Agriculture land use category and is located at 4004 Stag's Leap Way, approximately 2.75 miles west of the community of Paso Robles. The site is in the Adelaida planning area.			
RECOMMENDED ACTION Deny Tentative Parcel Map CO 04-0430 based on the findings listed in Exhibit A.			
ENVIRONMENTAL DETERMINATION This project is found to be statutorily exempt from the California Environmental Quality Act under the provisions of Public Resources Code section 21080(b)(5), which provides that CEQA does not apply to projects which a public agency rejects or disapproves.			
LAND USE CATEGORY Agriculture	COMBINING DESIGNATION None	ASSESSOR PARCEL NUMBER 026-231-006	SUPERVISOR DISTRICT(S) 1
PLANNING AREA STANDARDS: None applicable to this project			
LAND USE ORDINANCE STANDARDS: L.U.O. section 22.24, Transfer of Development Credits			
EXISTING USES: Single-family residence, six acres of irrigated vineyard			
SURROUNDING LAND USE CATEGORIES AND USES: <i>North:</i> Agriculture/Single-family residence, Agricultural production <i>South:</i> Agriculture/ Single-family residence, Agricultural production		<i>East:</i> Agriculture/ Single-family residence, Agricultural production <i>West:</i> Agriculture/Agricultural production	
ADDITIONAL INFORMATION MAY BE OBTAINED BY CONTACTING THE DEPARTMENT OF PLANNING & BUILDING AT: COUNTY GOVERNMENT CENTER ♦ SAN LUIS OBISPO ♦ CALIFORNIA 93408 ♦ (805) 781-5600 ♦ FAX: (805) 781-1242			

OTHER AGENCY / ADVISORY GROUP INVOLVEMENT: The project was referred to: Public Works, Environmental Health, Ag Commissioner, CDF, Regional Water Quality Control Board, California Department of Transportation, Parks Division, Air Pollution Control District	
TOPOGRAPHY: Gently to steeply sloping	VEGETATION: Oak and walnut trees, vineyard
PROPOSED SERVICES: Water supply: On-site well Sewage Disposal: Individual septic system Fire Protection: CDF	ACCEPTANCE DATE: N/A

ORDINANCE COMPLIANCE:

Minimum Parcel Size

The property is zoned Agriculture. Historically the property has been used as a dry farmed walnut orchard. The property also has approximately 7 acres of irrigation infrastructure for a vineyard.

The property has approximately 44 acres of class IV soils and 6 acres of class VI and VII soils. The minimum parcel size for class IV soils based on the land capability test is 40 acres for irrigated and 160 acres for non-irrigated land. The minimum parcel size for class VI and VII soils based on the land capability test is 320 acres for both irrigated and non-irrigated land.

The Land Use Ordinance requires that where a site contains more than one soils classification, each new parcel shall satisfy the minimum parcel size for the qualifying soils type. Because the subject property cannot satisfy the minimum parcel size for any of the soils types that are present, the property does not qualify for subdivision using the land capability test in the Agriculture land use category.

The applicant is requesting a subdivision of the 50 acre parcel that would result in two parcels of 30 and 20 acres each based on the provisions of the county Transfer of Development Credit Program (TDC).

TDC Receiver Site

Land Use Ordinance Section 22.24.070 provides for division of sites which do not otherwise qualify for division through use of the Transfer Development Credit (TDC) program. This program allows density to be transferred from an already established "sending site" to a "receiver site". The Transfer Development Credit (TDC) program provides for the creation of one additional parcel on properties which cannot otherwise qualify for a subdivision, including, properties within the Agriculture land use category, if the property meets all the other criteria to be designated a receiver site.

To qualify as a receiver site under Section 22.24.070 of the Land Use Ordinance, the site must meet the following criteria:

1. An Exemption (Categorical or General Rule), a Negative Declaration or a Final Environmental Impact Report, that does not identify significant, unavoidable adverse environmental effects, or exacerbation of such effects, relating to the additional density that would be allocated to the site, has been prepared or will be necessary as part of environmental determination for the proposed project.

2. The site is not within an Agricultural Preserve.
3. The site is within 5 miles of an urban or village reserve line except for the California Valley village reserve line.
4. The footprint of the area proposed for development (including new access roads and driveways) is less than 30 percent slope.
5. The footprint of the area proposed for development is outside of the Sensitive Resource Area (SRA), Flood Hazard (FH), Geologic Study Area (GSA), Earthquake Fault Zone, or Very High Fire Hazard Area as defined by the Land Use Element.
6. The footprint of the area proposed for development is outside of a Natural Area or Significant Biological Geographical or Riparian Habitat as defined by the Natural Areas Plan, the Land Use Element, or a subsequent revision or update of any element of the general plan.
7. The development will comply with: all development standards, water, sewage disposal and access standards, and land division standards as contained in Titles 19, 21, 22 and 23 of the county code.
8. The site was not an approved sending site, and also has a valid conservation easement recorded against the sending site.

Ag and Open Space Element Policy 4, encourages the use of small parcels in Agricultural land use category for establishment of small-scale agricultural uses. The purpose of this policy is to encourage agricultural uses on **existing** small agriculturally zoned parcels and discourage rural residences as the principle use.

Agriculture Policy 15-Transfer of Development Credits, and Framework for Planning policies state that the purpose of the TDC program is to:

- Protect both land with agricultural capability and the business of agriculture itself.
- Help protect agricultural resources by guiding development to more suitable areas.
- Direct growth and development away from agricultural areas, thereby reducing potential conflicts with agricultural activities.

Framework for Planning, General Goal 8 states that land uses should "Maintain a distinction between urban and rural development by providing for rural uses outside of urban and village areas which are predominantly agriculture, low intensity recreation, residential and open space uses which will preserve and enhance the pattern of identifiable communities."

Framework for Planning, General Goal 10 states that land uses should "Encourage the protection of agricultural land for the production of food, fiber, and other agricultural commodities".

DISCUSSION:

The Agricultural Commissioner's Office responded that this division "would result in potential significant impacts to agricultural resources and/or operations because each proposed parcel would not have adequate resources to ensure sustainable long-term agricultural production".

The property is located in an area consisting of mostly larger parcels with smaller parcels to the south and east. The chart below outlines the parcel sizes of the parcels found within a ½ mile radius of the subject parcel. Exhibit *Size of parcels within ½ Mile of 026-231-006* depicts the physical layout of these parcels.

APN	ACRES	APN	ACRES
026-231-005	322.438	026-231-058	10.127
026-241-001	118.058	026-231-075	13.748
026-231-065	75.248	026-231-074	30.234
026-231-066	89.564	026-231-059	31.310
026-231-026	106.701	026-231-027	49.062
026-241-022	34.995	026-231-051	40.879
026-241-023	21.155	026-231-073	24.973
026-241-024	19.943	026-231-061	76.394
026-231-006	48.887	026-231-031	21.417
026-241-007	42.290	026-231-035	57.366
026-231-078	38.988	026-231-023	124.502
026-231-062	37.623	026-231-040	344.641

The average parcel size for parcels found within a ½ mile radius of the subject parcel is 74.19 acres. The proposal to split the 50 acre parcel into two parcels of 30 and 20 acres in size would not be consistent with the surrounding area because the size of the resulting parcels would be less than half of the average parcel size. Furthermore, the existing parcel at 50 acres is below the average parcel size for the area.

Staff is concerned that a subdivision of this parcel into two parcels, less than one half the size of the average surrounding parcels, will create a precedent that could lead to a pattern of future subdivision of the larger agricultural parcels in the area. In addition, this proposal is inconsistent with:

- Ag and Open Space Element Policy 4 because the proposed division would decrease the agricultural capability of the existing parcel by creating two smaller, less sustainable long-term agricultural parcels (as indicated by the Agricultural Commissioner's Office);
- Agriculture Policy 15 because the proposed division would allow more development in an agricultural area.
- Framework for Planning, General Goal 8 because the proposed division would contribute to erosion of the distinction between urban and rural areas; and
- Framework for Planning, General Goal 10 because the proposed division would result in two smaller parcels which is contrary to the goal of protecting agricultural land for the production of food, fiber, and other agricultural commodities.

As mentioned above, the proposed subdivision is inconsistent with the intent of the TDC ordinance and staff is unable to make the findings for approval for this project.

ADJUSTMENTS:

Road Exception Request

The applicant is also requesting an exception to road standards for Stag's Leap Way. Stag's Leap Way is currently a private easement. Section 21.03.020(d)(7) states:

Private easements, if approved by the planning commission or subdivision review board, may serve as access to no more than an ultimate of five parcels, including parcels not owned by the divider. The number of parcels served by any private easement shall include existing parcels and all future parcels which could be created in the future according to the applicable general plan.

DISCUSSION:

Including the subject parcel, currently the private easement is accessed by six parcels, which is above the allowed amount (5); the proposed division would increase the access to seven parcels. A referral was sent to the Department of Public Works regarding this exception request. The Department indicated that they do not support an exception of this standard due to the fact that it does not currently meet driveway standards.

COMMUNITY ADVISORY GROUP COMMENTS: None applicable

AGENCY REVIEW:

Public Works - Recommended denial of the road exception request

Environmental Health – Indicated that the applicant shall provide evidence of on-site water and shall adhere to conditions in regards to well and septic systems.

Ag Commissioner - Indicated potential significant impacts resulting from the proposed division

County Parks – Indicated that Quimby fees are required

CDF – None received

LEGAL LOT STATUS:

The lot was legally created by a recorded map at a time when that was a legal method of creating lots.

This staff report was prepared by Josh LeBombard and reviewed by Kami Griffin.

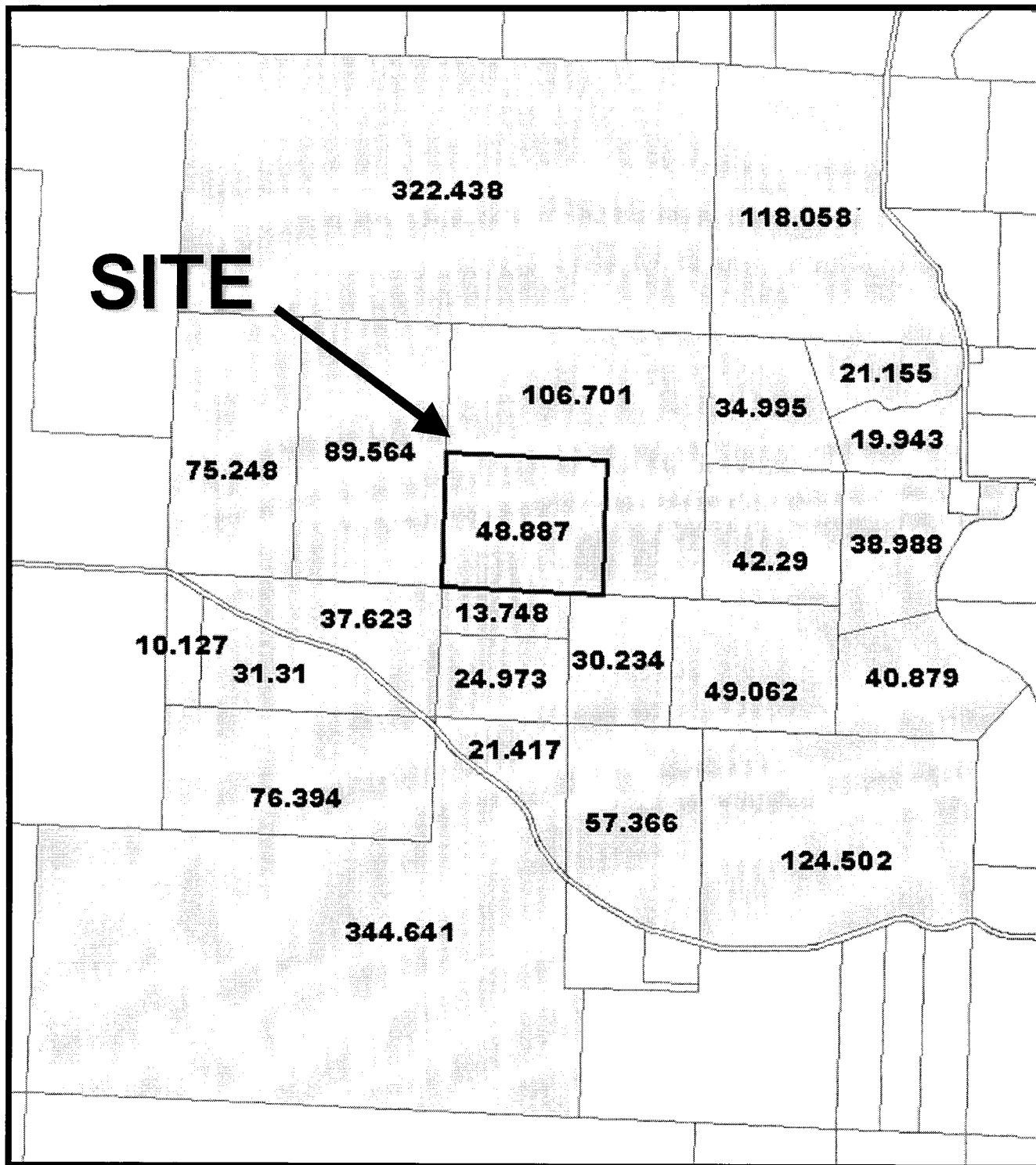
FINDINGS - EXHIBIT A

Environmental Determination

- A. This project is found to be statutorily exempt from the California Environmental Quality Act under the provisions of Public Resources Code section 21080(b)(5), which provides that CEQA does not apply to projects which a public agency rejects or disapproves.

Tentative Map

- B. The proposed map is inconsistent with applicable county general and specific plans because it does not comply with Ag and Open Space Policy 4 (small lot agriculture), as the project would create parcels that would not support sustainable long-term agriculture.
- C. The proposed map is inconsistent with applicable county general and specific plans because it does not comply with General Goal 8 of Framework for Planning (distinction between urban and rural development) because this subdivision because it contributes to erosion of the distinction between urban and rural areas.
- D. The proposed map is inconsistent with applicable county general and specific plans because the proposed division would result in two smaller parcels which is contrary to the goal (General Goal 10 of Framework for Planning) of protecting agricultural land for the production of food, fiber, and other agricultural commodities.
- E. The proposed map is not consistent with the county zoning and subdivision ordinances because although the parcel map may technically meet the criteria to be a receiving site, it doesn't meet the "intent" of Chapter 22.24 (TDC Ordinance) as the intent of the ordinance is to send development to more suitable areas and this site is not more suitable because it has the potential to be developed with a viable agricultural use (as a 50 acre parcel), and with the road exception request, would not have adequate access.
- F. The site is not physically suitable for the type of development allowed by the Agriculture Land Use Category as the proposed parcels are too small to support viable agriculture.
- G. The proposed parcels are smaller than the majority of surrounding agricultural parcels in the vicinity, making the proposed parcels inconsistent with the pattern of development of the area.
- H. That the granting of the adjustment will be detrimental to the traffic circulation system, the public utility and storm drainage systems, or vehicular or pedestrian safety because the proposed project would allow access onto a private easement by seven parcels.



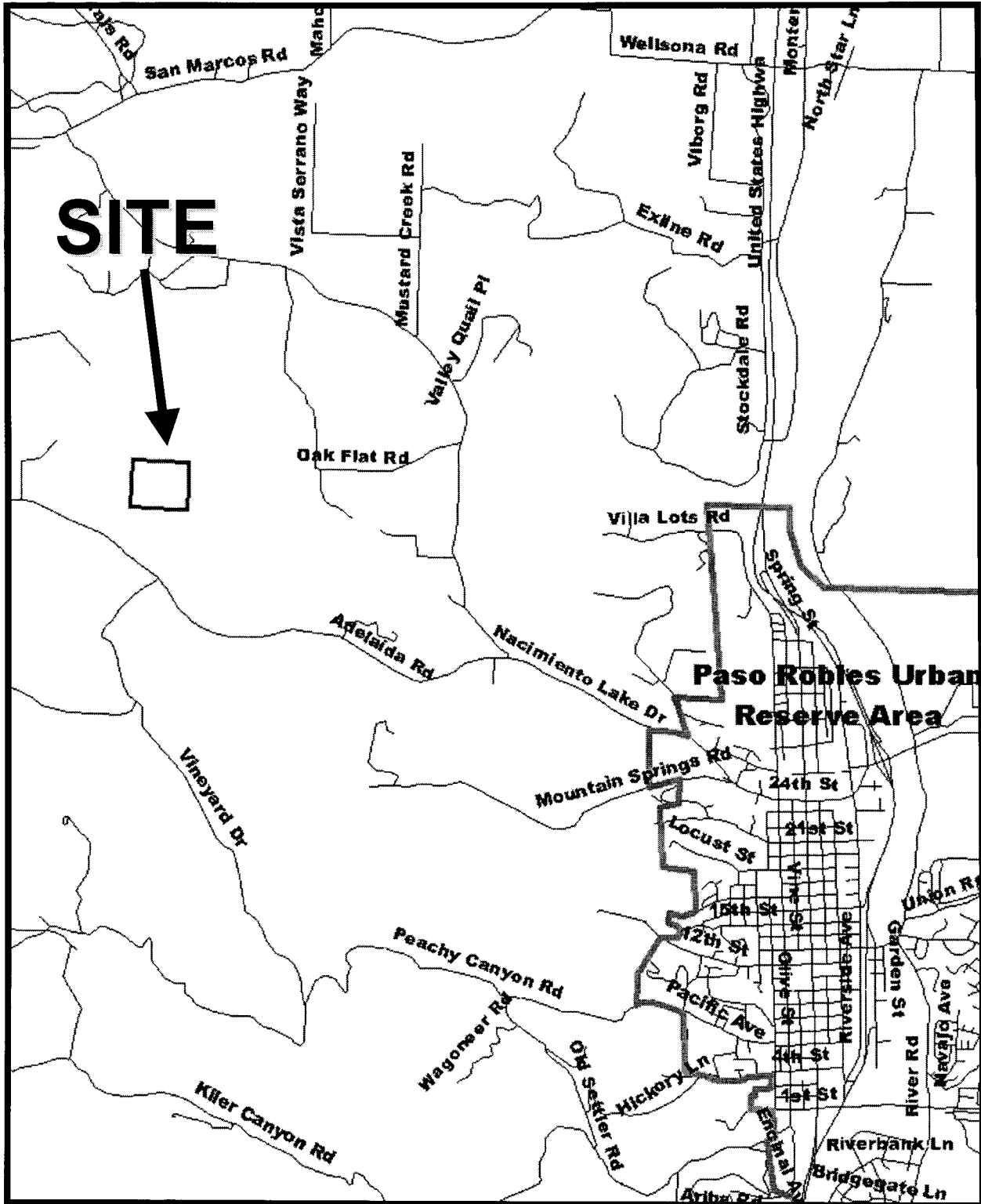
PROJECT

SUB2004-00019
Shipley



EXHIBIT

Size of parcels within 1/2 Mile
of 026-231-006



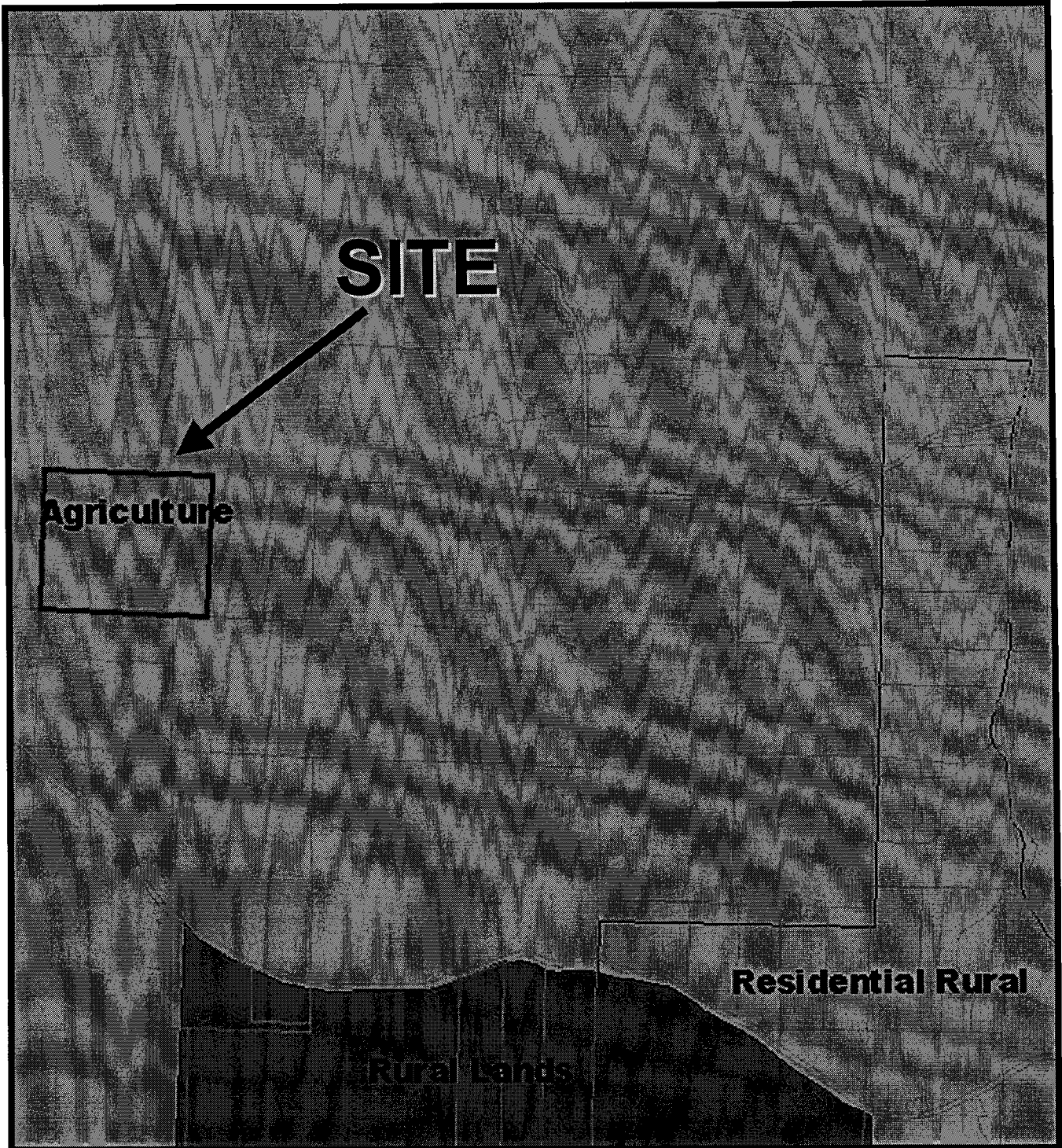
PROJECT

SUB2004-00019
Shipley



EXHIBIT

Vicinity Map



PROJECT

SUB2004-00019
Shipley



EXHIBIT

Land Use Category Map



PROJECT

SUB2004-00019
Shiple



EXHIBIT

Site Plan

4-15

GREG & GAIL SHIPLEY

4004 STAG'S LEAP WAY
PASO ROBLES, CA 93446
805-239-3201
FAX: 805-239-0517
gshipley@tcsn.net

July 12, 2004

Ms. KAMI GRIFFIN
SAN LUIS OBISPO COUNTY PLANNING DEPARTMENT
COUNTY OF SAN LUIS OBISPO
COUNTY GOVERNMENT CENTER
SAN LUIS OBISPO, CA 93408

RE: SHIPLEY PROPERTY SPLIT – TRANSFER DEVELOPMENT CREDIT

Dear Ms. Griffin:

Please find attached our application for "Land Division" under the TDC program. This is an "Ag" oriented application.

The reason for our proposed split from an original 50 acre parcel into a 20 acre parcel (that includes our home) and a new 30 acre parcel (winery development) is:

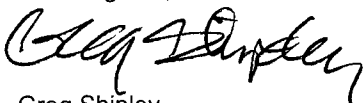
- ❖ This particular piece of property is one of the premier wine-grape growing parcels in the entire State of California. Originally surveyed by Andre Tschelacheff (the godfather of California Premium Wines) in 1981, this piece offers:
 - Southwest-Southeast facing slopes for maximum sun exposure and 35-37 total acres plantable
 - Chalky soil for low yield, high quality red grapes
 - Westside rainfall that favors "dry-farming" techniques that yields higher quality grapes with intense flavors. The old almond and walnut orchards (on the property) were dry farmed.
- ❖ We have tentative buyers for this property that will fully develop the vineyard/winery potential.

This property is less than 5 miles from the downtown of Paso Robles, off of Adelaida Road. Adjoining parcels are already 15, 25 and 30 acres (Brown/Peralta). Properties that are one additional property line away, toward Paso Robles, range in area from 5-9-10 & 20 acre parcels.

We have a source for the Transfer Development Credit with Donn Bonnheim.

We meet all conditions for the TDC Program and look forward to working with you on the completion of this application.

Best Regards,



Greg Shipley
Owner

Attachments: Land Division Application and Support Documentation



JXL
RECEIVED
SAN LUIS OBISPO COUNTY
DEPARTMENT OF PLANNING AND BUILDING
AUG 09 2004

SLO CO PLANNING & BLDG

VICTOR BOLANDA, AICP
DIRECTOR

GENERAL SERVICES
JUL 19 AM 10:39

THIS IS A NEW PROJECT REFERRAL

DATE:
FROM:
TO:
FROM:

7/19/2004 08/06/04
Parks
Noah Co. Team
(Please direct response to the above)

Shiplay
SUB2004-00019
Project Name and Number

Development Review Section (Phone: 781-788-2009) ()

PROJECT DESCRIPTION: TDC Rec. Site / Pm -> to divide 50 acres into 2 parcels. One 20 acre parcel w/ 1 SFR, the remaining 30 acres: 6 acres - vineyard, & future dev. for a new vineyard, winery & B & B. See details...

Return this letter with your comments attached no later than:

8/2/04

PART I

IS THE ATTACHED INFORMATION ADEQUATE FOR YOU TO DO YOUR REVIEW?

☒ YES
☐ NO

(Please go on to Part II)

(Call me ASAP to discuss what else you need. We have only 30 days in which we must accept the project as complete or request additional information.)

PART II

ARE THERE SIGNIFICANT CONCERNS, PROBLEMS OR IMPACTS IN YOUR AREA OF REVIEW?

☒ NO
☐ YES

(Please go on to Part III)

(Please describe impacts, along with recommended mitigation measures to reduce the impacts to less-than-significant levels, and attach to this letter.)

PART III

INDICATE YOUR RECOMMENDATION FOR FINAL ACTION. Please attach any conditions of approval you recommend to be incorporated into the project's approval, or state reasons for recommending denial. IF YOU HAVE "NO COMMENT," PLEASE INDICATE OR CALL.

Require Quimby Fees and applicable Building Division fees.

08/06/04
Date

Jan Dileo
Name

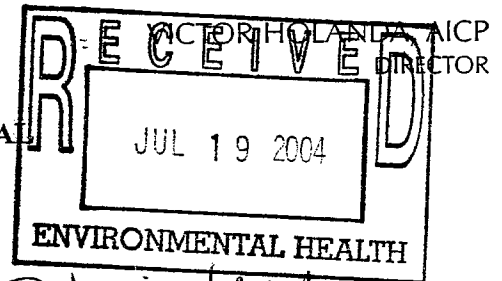
X4089
Phone



4-13

SAN LUIS OBISPO COUNTY
DEPARTMENT OF PLANNING AND BUILDING

CO 04-0430 JXL



THIS IS A NEW PROJECT REFERRAL

DATE:

7/19/2004

TO:

E.H.

FROM:

Noah Co. Team

(Please direct response to the above)

Shipty
SUB2004-00019

Project Name and Number

Development Review Section (Phone: 781-

788-2009)

PROJECT DESCRIPTION:

TDC Rec. Site / Pm -> to divide 50 acres into 2 parcels. One 20 acre parcel w/ 1 SFR, the remaining 30 acres: 6 acres - vineyard, & future dev. for a new vineyard, winery & B & B. See details...

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YES (Please go on to Part II)

NO (Call me ASAP to discuss what else you need. We have only 30 days in which we must accept the project as complete or request additional information.)

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NO (Please go on to Part III)

YES (Please describe impacts, along with recommended mitigation measures to reduce the impacts to less-than-significant levels, and attach to this letter.)

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Provide stock conditions for individual well and on-site septic systems. Applicant shall submit evidence of on-site water in order to receive preliminary approval from this office.

7/27/04
Date

Gauri Salo
Name

781-5551
Phone

4-14



COUNTY OF SAN LUIS OBISPO

Department of Agriculture/Measurement Standards

2156 SIERRA WAY, SUITE A • SAN LUIS OBISPO, CALIFORNIA 93401-4556
ROBERT F. LILLEY (805) 781-5910
AGRICULTURAL COMMISSIONER/SEALER FAX (805) 781-1035

AgCommSLO@co.slo.ca.us

DATE: August 16, 2004
TO: Josh LeBombard, Planner I
FROM: Lynda L. Auchinachie, Agriculture Department *LA*
SUBJECT: Shipley TDC Parcel Map SUB2004-00019 (0931)

Summary of Findings

The Agriculture Department's review finds that the proposal to use a Transfer of Development Credit (TDC) to subdivide a 50-acre project site into two parcels of thirty and twenty acres each within the Agricultural land use category would result in **potential significant impacts** to agricultural resources and/or operations because each proposed parcel would not have adequate resources to ensure sustainable long-term agricultural production. Additionally, the creation of substandard parcels in agricultural areas typically results in the development of non-agricultural uses that create additional incompatibilities with nearby agricultural operations.

The comments and recommendations in our report are based on policies in the San Luis Obispo County Agriculture and Open Space Element, the Land Use Ordinance, the California Environmental Quality Act (CEQA), and on current departmental policy to conserve agricultural resources and to provide for public health, safety and welfare while mitigating negative impacts of development to agriculture.

A. Project Description and Agricultural Setting

The applicant is requesting to use a TDC to subdivide a 50-acre project site into two parcels of thirty and twenty acres each within the Agricultural land use category. The project site is located on Stag's Leap Way, north of Adelaida Road, approximately five miles west of Paso Robles.

The project site is developed with residential and accessory structures and approximately six acres of wine grape vineyards and remnants of a dry farm walnut orchard. The site consists of approximately 44 acres of Class IV soils and six acres of Class VI and VII soils. These agricultural resources do not meet the minimum requirements for standard subdivision. Such standards were established to protect agricultural resources for long-term agricultural uses. Surrounding properties are within the Agriculture land use category and support wine grape vineyards and dry farm orchards.

B. Evaluation of Potential Impacts

Agriculture and Open Space Element and Land Use Ordinance

The proposed parcel map does not qualify for subdivision according to the standard tests for minimum parcel size in the Agriculture and Open space Element AGP21: Minimum Parcel Size Criteria for the Division of Agricultural Lands, and the Land Use Ordinance. The TDC program provides for the creation of one additional parcel on properties that cannot otherwise qualify for a subdivision, including properties within the Agriculture land use category, if the property meets all the other criteria to be designated a receiver site. The Agriculture Department is concerned about the use of agricultural lands as TDC receiving sites.

AGP 15 – Transfer of Development Credits, and Framework for Planning policies state that the purpose of the TDC Program is to:

- Protect both land with agricultural capability and the business of agriculture itself.
- Help protect agricultural resources by guiding development to more suitable areas.
- Direct growth and development away from agricultural areas, thereby reducing potential conflicts with agricultural activities.

The proposed project would not protect agricultural resources and would result in the creation of additional substandard parcels in agricultural areas. Typically, these substandard parcels convert to non-agricultural uses that create additional incompatibilities with existing agricultural operations.

Impacts to On-Site Agricultural Capability

The existing parcel consists of approximately six acres of irrigated wine grape vineyards and approximately 44 acres of Class IV soils and six acres of Class VI and VII soils. The proposed division of these resources would result in potential significant impacts to agricultural resources because each proposed parcel would not have adequate resources to ensure sustainable long-term agricultural production. Additionally, the proposed subdivision would allow for additional development that could result in the conversion of soils, which would further impact agricultural capability. The existing parcel configuration is superior in terms of long-term agricultural capability.

Impacts to Adjacent Agricultural Lands

Adjacent and nearby parcels are Class IV soils. The proposed subdivision utilizing the TDC program may lead to additional subdivision and conversion of these productive soils. Additionally, creation of substandard parcels as proposed often results in conversion of the land to non-agricultural uses that create additional incompatibilities with existing nearby agricultural operations.

The comments and recommendations in our report are based on policies in the San Luis Obispo County Agriculture and Open Space Element, the Land Use Ordinance, the California Environmental Quality Act (CEQA), and on current departmental policy to conserve agricultural resources and to provide for public health, safety and welfare while mitigating negative impacts of development to agriculture.

If we can be of further assistance, please call 781-5914.



4 - 11
SAN LUIS OBISPO COUNTY
DEPARTMENT OF PLANNING AND BUILDING

JUL 16 2004

VICTOR HOLANDA, AICP
DIRECTOR

THIS IS A NEW PROJECT REFERRAL

DATE:

FROM

FROM
[]

7/19/2004
PW

NOAH Co. Team
(Please direct response to the above)

Shiplay
SUB2004-00019
Project Name and Number

Development Review Section (Phone: 781-

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8/2/04

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☒ YES

(Please go on to Part III)

(Please describe impacts, along with recommended mitigation measures to reduce the impacts to less-than-significant levels, and attach to this letter.)

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STOCKS ATTACHED IN CASE THEY THINK THEY CAN GET THIS MESSY OFFER TO DENY. IT APPEARS THERE ARE 5 or 6 LOTS USING STAG'S LEAP WAY (MAYBE 7 or MORE), PRIVATE EASEMENTS MAY BE APPROVED TO SAVE AN ULTIMATE OF 5 PARCELS (21.03.010(4)(7)). THEY HAVE REQUEST AN EXCEPTION TO ROAD IMPROVEMENT STDS, BUT THEY CURRENTLY DON'T MEET DRIVEWAY STD IN 22.54.20 - EXHIBIT STATES STAG'S LEAP IS 12 FT, A DW OVER 300 FT HAS REQ 16 FT WIDTH AND A ROAD WOULD BE 18 FT. DON'T RECOMMEND SUPPORTING EXCEPTION - WHY PUSH AN EXPENSIVE CONDITION ONTO AN UNSUSPECTING FUTURE OWNER - LETTER TO K.G. INDICATES THEY INTEND TO SELL. NORTH ARROW ON

Date

19 AUG 2004

Name

Goodwin

Phone

Map points East

AFTER THOUGHT - Except

Reg - Don't use "Funding"

I DON'T SEE A PRIMARY EXCEPT THAT APPLIES

Revised 4/4/03

M:\PI-Forms\Project Referral - #216 Word.doc

COUNTY GOVERNMENT CENTER • SAN LUIS OBISPO • CALIFORNIA 93408 • (805) 781-5600

EMAIL: planning@co.slo.ca.us

FAX: (805) 781-1242

WEBSITE: http://www.slocoplanbldg.com